

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA

-v.-

**ALBERTO W. VILAR, and
GARY ALAN TANAKA,**

Defendants.

05 Cr. 621 (RJS)

**PETITION FOR REMISSION/MITIGATION BY THE
UNITED STATES SECURITIES AND EXCHANGE COMMISSION**

SECTION I – CONTACT INFORMATION

PETITIONER INFORMATION	
Petitioner/Contact Name: (Last, First) Contact Person: Jacobson, Neal, Trial Counsel	
Business/Institution Name: (if applicable) United States Securities and Exchange Commission	Prisoner ID: (if applicable)
Address: (Include Street, City, State, and Zip Code) Brookfield Place 200 Vesey Street, Suite 400 New York, NY 10281	
Social Security Number/Tax Identification Number: (Enter N/A if you do not have one) 84-1024566	
Please provide an explanation why you do not have a Social Security Number, if above is N/A:	
Phone: (optional) (212) 336-1100	Email: (optional) Jacobsonn@sec.gov
ATTORNEY INFORMATION (if applicable)	
Attorney Name: (Last, First)	
Attorney Title:	
Firm Name: (if applicable)	
Attorney Address: (Include Street, City, State, and Zip Code)	
Are you an attorney filing this petition on behalf of your client? <input type="checkbox"/> YES <input type="checkbox"/> NO	
Attorney Phone: (optional)	Attorney Email: (optional)

If any of this information changes, you are responsible for notifying the agency of the new information.

SECTION II – ASSET LIST

You must identify your role for each asset in your petition. Please review the role definitions below.

ROLE INFORMATION (multiple roles may apply to each asset)	
Owner	<i>The person in whom primary title is vested or whose interest is manifested by the actual and beneficial use of the property, even though the title is vested in another. A victim of an offense, as defined in this section, may also be an owner if he or she has a present legally cognizable ownership interest in the property forfeited. A nominal owner of property will not be treated as its true owner if he or she is not its beneficial owner.</i>
Victim	<i>A person who has incurred a pecuniary loss as a direct result of the commission of the offense underlying a forfeiture. A drug user is not considered a victim of a drug trafficking offense under this definition. A victim does not include one who acquires a right to sue the perpetrator of the criminal offense for any loss by assignment, subrogation, inheritance, or otherwise from the actual victim, unless that person has acquired an actual ownership interest in the forfeited property; provided however, that if a victim has received compensation from insurance or any other source with respect to a pecuniary loss, remission may be granted to the third party who provided the compensation, up to the amount of the victim's pecuniary loss.</i>
Lienholder	<i>A creditor whose claim or debt is secured by a specific right to obtain satisfaction against the particular property subject to forfeiture. A lien creditor qualifies as a lienholder if the lien:</i> <i>(1) Was established by operation of law or contract;</i> <i>(2) Was created as a result of an exchange of money, goods, or services; and</i> <i>(3) Is perfected against the specific property forfeited for which remission or mitigation is sought (e.g., a real estate mortgage; a mechanic's lien).</i>

Identify the asset ID and asset description for each asset you are petitioning and indicate your role as a petitioner for each asset. You may select one or more roles.

#	Asset ID	Asset Description	Unsecured Judgment Creditor
	102-17995	J.P. Morgan Chase Bank Account in name of Techno Raquia, S.A.	x
	102-01485	J.P. Morgan Chase Bank Account in name of Amerindo Management Inc.	x
	102-01495	J.P. Morgan Chase Bank Account in name of Amerindo Technology Growth Fund II	x
	102-15833	J.P. Morgan Chase Bank Account in name of Olafson, Inc.	x
	102-25612	J.P. Morgan Chase Bank Account in name of Amerindo Investment Advisors, Inc. Money Purchase Plan and Trust Alberto Vilar TTEE	x
		Approximately \$273,611.89 in funds formerly held by @Ventures Management, LLC for the benefit of Amerindo Technology Growth Fund II, Inc.	x

SECTION III – VICTIM PETITION

If you are filing this petition as a victim, please fill out the information below. The information must apply to all of the assets you selected as a victim role in the previous section. If you are not filing as a victim for any assets, you may skip this section.

On May 16, 2014, the United States Securities and Exchange Commission (“SEC”) obtained the following judgments relevant to this petition in *SEC v. Amerindo Investment Advisors, Inc., et al.*, No. 05-5291 (RJS) (SDNY) (the “SEC Action”).

1. Final Judgment of liability against Alberto W. Vilar comprised of \$14,755,984.70 in disgorgement of ill gotten gains; \$3,816,917.32 in prejudgment interest; and a \$10,000,000 civil money penalty. (Dkt. # 433).
2. Final Judgment of liability against Gary A. Tanaka comprised of \$10,005,984.70 in disgorgement of ill gotten gains; \$3,112,709.26 in prejudgment interest; and a \$10,000,000 civil money. (Dkt.# 434).
3. Final Default Judgment against Amerindo Investment Advisors Inc.; Amerindo Investment Advisors, Inc.; Amerindo Advisors UK Limited; Amerindo Management Inc.; Amerindo Technology Growth Fund, Inc.; Amerindo Technology Growth Fund II, Inc.; and Techno Raquia, S.A. comprised of joint and several disgorgement of ill gotten gains in the amount of \$25,656,808.67; joint and several prejudgment interest in the amount of \$10,913,643.20; and a \$17,969,803.27 civil money penalty against each of them. (Dkt.# 435).

The final judgments of liability were entered after the Court granted the SEC summary judgment in the SEC Action on March 11, 2013 (Dkt. # 272) and on January 31, 2014 (Dkt. # 348). The Disgorgement amounts for each judgment are subject to offset by payments made by the Receiver in the SEC Action to certain investors (Lily Cates, members of the Mayer family, the estate of Tara Colburn, Ronald Salvitti, John Sweetland, Sr., and Paul Marcus).

In the space below, please list any documents you are including in support of your victim petition. If none are included, please explain why.

The petition is supported by the docket entries in the SEC Action listed above.

SECTION IV – INTEREST IN PROPERTY

Provide additional information for the assets where you have identified yourself as the owner and/or lienholder. If you are petitioning for multiple assets and the responses are not the same for each asset, please print out multiple copies of this page to submit with the petition and indicate which assets apply to each page. If you have documentation that supports your interest in the petitioned assets (bill of sale, retail installment agreements, contracts, titles or mortgages) please include copies of the documents with the submission of the petition.

INTEREST IN PROPERTY INFORMATION	
Asset ID	Asset Description

In the space below, please explain why you have a valid, good faith, and legally recognizable interest in the asset(s) as an owner or lienholder:

N/A

Select the reason why you are petitioning for remission and/or mitigation of the asset(s)?

- ☐ I am an innocent owner and I did not know of the conduct giving rise to the forfeiture OR I am an innocent owner and upon learning of the conduct giving rise to the forfeiture, I did all that reasonably could be expected under the circumstance to terminate such use of the property.
- ☐ I was a bona fide purchaser or seller of the forfeited property for value, AND I did not know and was without cause to believe that the property was subject to forfeiture at the time I acquired my interest in the property.
- ☒ None of the above. I am only seeking mitigation.

In the space below, please explain the reason for filing a petition.

To the extent practicable, the SEC will distribute any recoveries from this Petition to creditors of the defendants and their affiliated entities who have allowed claims in the Receivership in the SEC Action.

In the event that the ruling official determines that I do not qualify for remission of the property, I hereby request mitigation of the forfeiture to avoid extreme hardship.

☐ YES ☐ NO

In support of my request, I would like the ruling official to consider the following extenuating circumstances:

In the space below, please list any documents you are including in support of your interest in the asset(s). If none are included, please explain why.

SECTION V – NET EQUITY WORKSHEET

Complete the table below for each asset where you are a lienholder. If you are a lienholder for multiple assets, please print out multiple copies of this page to submit with the petition.

LOAN / ASSET INFORMATION		
Asset ID:	Asset Description:	Seizure Date:
Purchaser:	Co-Signer (optional):	
Loan Date:	Date of Last payment:	
Amount Financed: \$	Date Lien Perfected with State:	
Original Term of Loan (months):	Day of the Month Each Payment is Due:	
Contract Rate of Interest: %	Total Amount Paid to Lienholder After Seizure: \$	
Unpaid Principal Due at Seizure: \$	Unpaid Interest Due at Seizure: \$	
Dealer's Reserve: \$	Taxes, Transfer Fees, etc.: \$	
Insurance Costs: \$	Duration (months):	
Service Contract Costs: \$	Duration (months):	
Extended Warranty Costs: \$	Duration (months):	
Miscellaneous Costs: \$		
Provide Details (for miscellaneous costs):		
INFORMATION FURNISHED BY		
Contact Name: (Last, First)	Business Name:	
Address: (Include Street, City, State, and Zip Code)		
Phone: (optional)	Email: (optional)	

* Copies of your Net Equity assertions, such as bills of sale, retail installment agreements, contracts, certificates of title, payment history, security agreements, loan applications, or mortgages, which support the amount claimed as unpaid principal, must be attached to this report as an attachment.

In the space below, please list any documents you are including in support of this Net Equity Worksheet. If none are included, please explain why.

SECTION VI – RECOVERY OF LOSS

Complete this section for the assets where you have identified yourself as the owner and/or lienholder and you have recovered all or a portion of your losses either via an insurance claim and/or via some other source of recovery. If you have more recovery of loss information than may fit on this page, print out multiple copies of this page to submit with the petition and indicate which assets apply to each page. If you have not received any recovery of your losses, then leave this section blank.

RECOVERY OF LOSS INFORMATION	
Asset ID	Asset Description

INSURANCE CLAIM INFORMATION (if applicable)	
Name of Insured: (Last, First)	
Policy Number:	Claim Number:
Name of Insurance Company:	Name of Insurance Agent: (Last, First)
Insurance Company Address: (Include Street, City, State, and Zip Code)	
Phone: (optional)	Email: (optional)
Have you received compensation from the insurance company? <input type="checkbox"/> YES <input type="checkbox"/> NO	Amount of Compensation:

If other sources of recovery exist (e.g., restitution, returns on investment or other settlements), please list and describe the details below.

OTHER SOURCE(S) OF RECOVERY (if applicable)	
Source of Recovery 1:	Amount of Recovery:
Source of Recovery 2:	Amount of Recovery:

In the space below, please list any documents you are including in support of your recovery of loss. If none are included, please explain why.

SECTION VII – DECLARATION AND REPRESENTATION

The following declaration should be completed by the petitioner. If the petitioner is represented by an attorney, the attorney may complete the declaration as long as the petitioner completes the sworn notice of representation.

I attest and declare under penalty of perjury that my petition is not frivolous and the information provided in support of my petition is true and correct to the best of my knowledge and belief.

/s/Neal Jacobson _____
Signature

Neal Jacobson _____
Printed Name

9/18/19 _____
Date

Sworn Notice of Representation

This section must be completed only by petitioners who are represented by an attorney and whose attorney has executed the declaration provided above.

I have retained the above-named attorney who has authority to represent me in this matter. I have fully reviewed the foregoing petition and found that its contents are truthful and accurate in every respect. I declare under penalty of perjury that the foregoing information is true and correct.

Signature

Printed Name

Date

A petition containing false information may subject the petitioner to criminal prosecution under Title 18 United States Code Section 1001 and Title 18 United States Code Section 1621.